IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

WP(C).No. 32764 of 2006(A)

PETITIONER:

VIDYADARAN NAIR, AGED 50,
S/O. RAGHAVAN PILLAI, USHUS, KORANAMKODU,
KOTTAKKAL P.O., PERUMKADAVILA, NEYYATTINKARA TALUK

BY ADV. SRI.R.T.PRADEEP

RESPONDENTS:

---

1. THE SECRETARY,
PERUMKADAVILA BLOCK PANCHAYAT, PERUNKADAVILA P.O.,
THIRUVANANTHAPURAM.

2. THE BLOCK DEVELOPMENT OFFICER,
PERUNKADAVILA BLOCK PANCHAYAT, PERUNKADAVILA P.O.,
THIRUVANANTHAPURAM.

3. BANIT A.D.,
MARGALA BHAVAN, MANOOR, VELLARADA VILLAGE,
DALUMUGHAM P.O., NEYYATTINKARA TALUK,
THIRUVANANTHAPURAM.

ADDITIONAL RESPONDENT

4. THE CHIEF TECHNICAL EXAMINER OF FINANCE WING
THIRUVANANTHAPURAM

Additional 4th respondent suo motu impleaded vide judgment dtd. 14-08-07

BY ADV. SRI.G.SUDHEER
GOVT.PLEADER SRI.MOHAMMED FAIZAL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1	TRUE COPY OF WORK ORDER DTD. 5-11-03
EXT.P2	TRUE COPY OF TEST RESULT DTD. 2-9-04
EXT.P2(A)	DO. DTD. 13-10-04
EXT.P2(B)	DO DTD. 11-1-05
EXT.P2(C)	DO DTD. 30-03-2005
EXT.P3	TRUE COPY OF THIRD AND FINAL BILL
EXT.P4	TRUE COPY OF FORWARDING NOTE DTD.5-11-05 TO EXT.P3
EXT.P5	TRUE COPY OF COMPLAINT DTD. NIL
EXT.P6	TRUE COPY OF NOTICE DTD. NIL
EXT.P7	TRUE COPY OF ORDER DTD. 5-1-06
EXT.P8	TRUE COPY OF WRITTEN STATEMENT OF PETITIONER DTD. 8-12-05
EXT.P9	TRUE COPY OF STATEMENT OF RESPONDENTS 1 AND 2

RESPONDENT'S EXHIBITS

EXT.R1(A)	TRUE COPY OF THE REQUEST FORWARDED BY THE PETITIONER TO THE COMMISSIONER FOR RURAL DEVELOPMENT DTD. 23-1-07

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

\- -

W.P.(C).No. 32764 OF 2006

\- -

Dated this the 14th day of August,2007

JUDGMENT

Petitioner challenges Exts.P5, P6 and P7 and seeks a declaration that Ombudsman is wholly without jurisdiction to act on Ext.P5. There is a further prayer for a direction to respondents 1 and 2 to release the amount due under third and final bill as per Ext.P3.

Case of the petitioner in brief is as follows:

Petitioner was entrusted the work contract for the reconstruction and renovation of Chamavila-Mullaluvila-Panchamoodu Road. He completed the work. While so, Ext.P5 complaint was filed against him by the third respondent. On the basis of the complaint, Ext.P7 order was passed. In Ext.P7 order after taking note of the statement of the petitioner denying the allegations, the Ombudsman found that the road in question has to be inspected by the Chief Technical Examiner of Finance Wing and a direction was given to the Chief Technical Examiner of Finance Wing, Thiruvananthapuram to inspect the road and

submit a report. The matter is posted for further hearing after the receipt of the report from the Chief Technical Examiner of Finance Wing.

2. According to the petitioner, there is no complaint against a public servant. Petitioner has a case that Ombudsman has no jurisdiction in the matter. This court has passed an order by which the respondent was directed to pay a sum of rupees ten lakhs and the amount is paid also. This court further directed that the report of the Chief Technical Examiner which was directed to be filed in Ext.P7 be made available. The report has been made available under a memo by the Government Pleader. In the report it is stated that Chief Technical Examiner has arrived at certain conclusions. He has also directed that the over payment recommended in the bill for an amount of Rs. 70,268/- is to be recovered. The balance amount remaining to be paid is Rs. 7,09,921/-, it is pointed out.

Having regard to all facts, the writ petition is disposed of as follows:

The Chief Technical Examiner of Finance Wing, Thiruvananthapuram is suo motu impleaded as the additional 4th

respondent. Government Pleader appears for the additional 4th respondent. The additional fourth respondent will make available the report before the Ombudsman within a period of one week from today. The Ombudsman will consider the matter and after hearing the parties, take a decision within a total period of one month from the date of production of a copy of this judgment before the Ombudsman. I make it clear that it is open to the petitioner to raise the contention that the Ombudsman has no jurisdiction in the matter to entertain Ext.P5 complaint.

3. Learned counsel for the Panchayat submits that Panchayat is prepared to make payment of the balance amount. Having regard to all facts and the contents of the report, there will be a further direction that the second respondent will release a sum of Rs. 1,50,000/-(Rupees One Lakh Fifty Thousand) to the petitioner within a period of one week from today. It is open to the petitioner to file objection to the report of the Chief Technical Examiner before the Ombudsman.

(K.M.JOSEPH, JUDGE)

sv.